

Atty Dkt. No.: STAN-334
USSN: 10/714,488

REMARKS

In view of the following remarks, the Examiner is requested to allow claims 18 – 26 and 46 – 48 the only claims rejected in this application.

Claims 18 and 46 have been amended to include the step of monitoring for both vasoconstriction and vasodilation in a specific portion of the body. Support for these amendments may be found throughout the specification and claims as originally filed. See for instance, paragraph 22. As no new matter is added by way of these amendments, entry thereof by the Examiner is respectfully requested.

As an initial matter, the Applicants thank the Examiner for allowing claims 1-17, 27, 29-33, 35, and 37-44.

Claims 18-26 and 46-48 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

In order to expedite prosecution and advance the claims to issuance, the Applicants have amended Claims 18 and 46 to clarify the claim language. Specifically, reference to "transferring heat from a body portion of a mammal" has been removed from the preamble of the claim. Claims 18 and 46 are therefore clear and distinct. Claims 19 – 26 and 47 – 48 depend from Claims 18 and 46, respectively.

The amendments to Claims 18 and 46 should not be viewed as acquiescence to any position of the Office. However, in light of the above amendments the Applicants believe that the 35 U.S.C. § 112, second paragraph, rejection is now moot and respectfully request this rejection be withdrawn.

Claims 18, 26, and 46 – 48 have been rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Kushnir *et al.* (USPN 6,685,731).

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Claims 18 and 46 have been amended to include the step of monitoring for both vasoconstriction and vasodilation in a specific portion of the body.

Nowhere does Kushnir teach "monitoring for both vasoconstriction and vasodilation in a specific portion of the body." Accordingly, because Kushnir does not teach all of the elements of rejected Claims 18 and 46, it fails to anticipate the claimed invention. Because the independent base claims (18 and 46) are not anticipated Claims 26 and 47 – 48 dependent there from are also not anticipated. Applicants, therefore, respectfully request reconsideration and withdrawal of the § 102 (e) rejection as to Claims 18, 26, and 46 – 48.

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CONCLUSION

The Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number STAN-334.

Respectfully submitted,
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